

Remarks

Claims 1-22, 50, and 56-58 are pending. Claims 23-26, 29-32, 34-36, 43, 47-49, 51-55, and 59-61 are canceled without prejudice or disclaimer. Applicants reserve the right to pursue the subject matter of the cancelled claims in a subsequent application.

§ 112 Rejections

The pending claims 1-22, 50 and 56-58 stand rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement.

The Examiner alleged that the recitation in claims 1 that the polymer foam is smooth without being bonded to an additional surface is new matter. Applicants respectfully disagree.

Page 8, lines 17-23 of the specification provides that “foams with a substantially smooth surface can be produced in a single step. Accordingly, it is not necessary to bond additional layers to the foam in order to achieve a smooth-surfaced article.”

Further, the specification provides a definition of the term “substantially smooth” on page 2, lines 4-5. A surface that is substantially smooth has a Ra value of less than about 75 micrometers. The Ra values for various polymer foams are included in the Example section of the patent application. More specifically, Examples 10-13 were prepared by extruding various foam sheets using Hot Melt Composition 1. After cooling, the foam sheets were transferred to a polyethylene film to support the foam sheets. The foam sheets were cross-linked using an electron beam or a mercury vapor lamp. The surface roughness of the foam sheet (i.e., the surface of the foam sheet opposite the polyethylene supporting film) was measured. The foam sheet of Example 12 had a surface roughness (Ra) of 14 micrometers while the foam sheet of Example 13 had a surface roughness of 33 micrometers. The foam sheet of Example 18 was prepared using a similar procedure to Examples 10-13 and had a surface roughness of 21 micrometers. Thus, these examples as well as others other provide written support for a polymer foam that is smooth without being bonded to an additional surface. In other words, the surfaces of the polymer foams in these samples were substantially smooth and another layer attached to the polymer foam, such as the skin layer disclosed in US ‘712, is not needed to provide a smooth surface.

The Examiner further alleged that the application lacks support for the recitation in claim 56 that the polymer foam is capable of stretch activated release. Applicants respectfully disagree. Examples 50 and 52 (see page 35 of the application) are described as possessing stretch activated release characteristics as described in U.S. Patent No. 5,507,464.

In summary, Applicants submit that the rejection of claims 1-22, 50 and 56-58 under 35 USC § 112, first paragraph, has been overcome, and that the rejection should be withdrawn.

Rejections under 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a)

The Examiner suggested that claim 1 would overcome the prior rejections based on U.S. 5,476,712 (Hartman et al.) if written support for the previous amendments were provided. As discussed above, Applicants submit that there is sufficient written support for the amendments that were made to this claim. Thus, claim 1 and the claims dependent therefrom are not anticipated or obvious over U.S. 5,476,712 issued to Hartman et al.

In view of the above, it is submitted that the pending claims 1-22, 50 and 56-58 are in condition for allowance. A Notice of Allowance is earnestly solicited.

Respectfully submitted,

April 21, 2004
Date

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